



DEPARTMENT OF HEALTH & HUMAN SERVICES

JUN 14 2006

Food and Drug Administration
Rockville MD 20857

Re: S8 Over-the-Wire System
Docket No. 2006E-0206

The Honorable Jon Dudas
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Box Pat. Ext.
P.O. Box 1450
Alexandria, VA 22313-1450

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OFFICE OF PETITIONS

Dear Director Dudas:

This is in regard to the application for patent term extension for U.S. Patent No. 6,159,229 filed by Medtronic Vascular under 35 U.S.C. § 156. The medical device claimed by the patent is S8 Over-the-Wire System, which was assigned PMA No. P030009.

A review of the Food and Drug Administration's official records indicates that this product was subject to a regulatory review period before its commercial marketing or use, as required under 35 U.S.C. § 156(a)(4). Our records also indicate that it represents the first permitted commercial marketing or use of the product, as defined under 35 U.S.C. § 156(f)(1), and interpreted by the courts in *Glaxo Operations UK Ltd. v. Quigg*, 706 F. Supp. 1224 (E.D. Va. 1989), *aff'd*, 894 F.2d 392 (Fed. Cir. 1990).

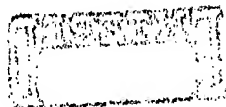
The PMA was approved on October 1, 2003, which makes the submission of the patent term extension application on November 26, 2003, timely within the meaning of 35 U.S.C. § 156(d)(1).

Should you conclude that the subject patent is eligible for patent term extension, please advise us accordingly. As required by 35 U.S.C. § 156(d)(2)(A) we will then determine the applicable regulatory review period, publish the determination in the *Federal Register*, and notify you of our determination.

Please let me know if we can be of further assistance.

Sincerely yours,

Jane A. Axelrad
Associate Director for Policy
Center for Drug Evaluation and Research



cc: Michael J. Jaro
Medtronic Vascular
Chief Patent Counsel
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Santa Rosa, CA 95403